

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, WILL HOLD A REGULAR COUNCIL MEETING IN THE THIRD
FLOOR ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON
THURSDAY, JULY 19, 2007 AT 7:30 P.M.**

The meeting of the **New Albany City Council** was called to order by Vice President Dan Coffey at 7:30 p.m. The meeting opened with the Lords Prayer and the Pledge of Allegiance.

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Schmidt, Mr. Price, Mrs. Crump, Mr. Blevins, Mr. Messer and Mr. Zurschmiede. Councilmember's Gahan and Kochert were not present.

OTHERS: Council Attorney Jerry Ulrich and City Clerk Marcey Wisman.

ALSO: Mayor James Garner, John Rosenbarger and Scott Wood, Planning and Zoning.

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mrs. Crump moved to approve the July 2nd meeting minutes as amended, Mr. Schmidt second, all voted in favor. Mr. Schmidt and Mr. Blevins abstained.

APPROVAL OF CF-1 FORMS:

Metal Sales Manufacturing Corp, Compliance with
Statement of benefits referencing R-99-31 and R-99-32

Mr. Schmidt moved to approve, Mr. Messer second, all voted in favor.

COMMUNICATIONS – PUBLIC:

Lee & Dora Klintstiver, addressed the board regarding Z-07-10. They border the piece of property that abuts this area to be included in the fringe area. They own 197 acres that is farmed and they are concerned about how this project will affect their property, live stock, and the wildlife. They are also concerned about the increased traffic and the problems that could arise during flooding if a fire would break out in this complex. There are also plans for a retention pond that will be on their property line right behind where they planned to build a new house. They were also concerned with the Stormwater run-off from the development as well and think it will have a very negative impact on them. They explained previous issues with flooding and the problems it has caused them in the past.

John Barksdale addressed the board regarding Z-07-10. He informed them that he owns the property on the other side of the area and he is also concerned about the flooding problems in the area and showed pictures of the 1997 flood. He spoke of the wildlife that has made a home in the woods that surrounds the area that will be destroyed if the development is brought in as well as issues with wind that will be an increased issue if the trees are cut down. He also had questions regarding where the children from the new subdivision would go to school without major expansion to the existing schools in the area.

COMMUNICATIONS – CITY OFFICIALS:

Mr. Schmidt recommended that the two members of the sewer board should be paid for the time that they put into the board.

Mr. Blevins stated that it has to be brought to them in ordinance form and then they can vote on it.

Mr. Coffey stated that he believes that money is allocated to pay them and suggested that Mr. Schmidt bring it to them in the form of a resolution.

COMMUNICATIONS – MAYOR:

Mayor Garner apologized to the council for Kay Garry who could not be here tonight to explain her ordinance for the 2007 budget. He also stated that they received a letter from Mike Summers in their packets regarding the Stormwater views on the need for their reviews of all development plans. He explained that Mr. Summers and Mr. Gibson talked and he believes they have this worked out.

APPOINTMENTS:

INTRODUCTION OF ORDINANCES AND RESOLUTIONS: READING

R-07-28	Resolution Concerning Statement of Benefits for BoonDock Properties, LLC, by the Common Council Of the City of New Albany	Messer
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Mr. Messer moved for the reading of R-07-28, Mr. Crump second,

Mr. Malyzs informed the board that they would like to table this resolution because there appears to be statute changes in 2006 whereby tax abatement could be made available for an existing vacant building. He explained there are some other nuances with this resolution that he would like to address at the next meeting so the Council would be better informed about the decision they are going to make regarding this issue.

Mr. Messer tabled the resolution.

R-07-29	A Resolution by the Common Council of the City of New Albany, Indiana, consenting to the Issuance by The Town of Sellersburg, Indiana of Economic Development Revenue Bonds for Community Montessori, Inc.	Gahan
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Mrs. Crump moved for the reading of R-07-29, Mr. Zurschmiede second, all voted in favor.

Mr. Schmidt asked if the city would be obligated to pay this if the school defaults.

Mr. Gibson said that this does not obligate the City in any way. It is similar to the resolution that was passed for Christian Academy and they are just consenting to Montessori's agreement with the Town of Sellersburg.

A-07-21	An Ordinance Approving an Additional Appropriation For the Rainy Day Fund	Coffey 1, 2&3
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Mrs. Crump moved to suspend the rules, Mr. Schmidt second, all voted in favor with the exception of Mr. Coffey.

Mrs. Crump called for the first reading of A-07-21, Mr. Schmidt second, Mr. Schmidt, Mr. Blevins and Mr. Messer votes yes, Mr. Coffey, Mr. Zurschmiede, Mrs. Crump and Mr. Price voted no, because of a lack of a majority vote no action was taken.

Mr. Price stated that he once again would like to say that he believes that we should have made cuts rather than raid the rainy day fund.

Mr. Zurschmiede stated that he asked if the 2007 budget was inflated why they couldn't cut from the areas that were over-inflated rather than take it out of the rainy day fund and he stated when he asked Mrs. Garry she said they couldn't do that.

Mrs. Crump stated that the ordinance that they received is not the option that they chose at their budget meeting.

Mr. Coffey said that it is his opinion that they need to make the cuts and find the money to put into the drop program that they haven't been doing for the last several years and they will be looking at higher property taxes otherwise.

Mayor Garner said he believes that is what Mrs. Garry understood the cuts to be and that she made cuts where she could, but that she would be here next week if they wanted to table it to ask her some questions.

A-07-22 An Ordinance Amending Ordinance A-06-38 Setting Schmidt 1
The Salaries for the year 2007 for Non-Bargaining Unit
Employees

Mr. Schmidt called for the first reading of A-07-22, Mr. Messer second, all voted in favor except for Mr. Schmidt and Mr. Price who voted no.

Mr. Messer asked what position this is for.

Mr. Koehler stated that this is for a Mr. Mills (Maintenance Director) who has left and they want to raise the salary to attract a qualified individual. He explained that the gentleman they are looking at has been in the industry for 25 years, has construction and project management experience.

Mr. Price asked what would be wrong with bringing someone in and let them prove themselves.

Mr. Koehler explained that they have a 9 month probation period and they do not come in at the full salary. He stated that there are a number of qualifications that he is going to require for this position.

Mr. Price asked what he would do if their budget is cut.

Mr. Koehler explained that he feels comfortable with the 2007 budget; he stated that they are fiscally conservative and feels comfortable with their budget. He stated he wouldn't be asking for this if they didn't have the funds.

G-07-11 An Ordinance Separating the Accounts of the New Zurschmiede 1
Albany Sanitation Department and the New Albany
Sewer Utility into Separate Funds

Mr. Coffey stated that the next one they need to separate is the Street Department.

Mr. Zurschmiede moved for the first reading of G-07-11, Mrs. Crump second, all voted in favor.

Z-07-11 Ordinance Amending the Code of Ordinances of New Zurschmiede2&3
Albany, Indiana Title XV, Chapter 156 (Docket P-07
07: Glenn R. & Vivian A. Linnert)

Mr. Zurschmiede moved for the second and third readings of Z-07-11, Mr. price second, all voted in favor. Bill Z-07-11 became ordinance Z-07-32.

Z-07-12 Ordinance Amending the Code of Ordinances of New Zurschmiede2&3
Albany, Indiana Title XV, Chapter 156 (Docket P-08
07: JonPaul, Inc.)

Mr. Zurschmiede moved for the second and third readings of Z-07-12, Mr. Schmidt second, all voted in favor. Bill Z-07-12 became ordinance Z-07-33.

Paul Collings addressed the issue of the parking for his project. He explained that they had 29 spaces and he had the architect draw it up with 33 spaces. He presented a drawing for the council members to review.

Mr. Schmidt asked if any of this was on the church property.

Mr. Collings stated absolutely not.

Z-07-10	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156, (Docket A-01-07 – Fringe Expansion)	Zurschmiede3
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Mr. Zurschmiede moved for third reading of Z-07-10, Mrs. Crump second, with a vote of three ayes from Mrs. Crump, Mr. Zurschmiede, and Mr. Messer, and four no's from Mr. Schmidt, Mr. Price, Mr. Blevins and Mr. Coffey, because of a lack of a majority vote no action was taken.

Mr. Kraft addressed the board and clarified the issue of this project and stated that the real issue before them is actually the rezoning of the area. He stated that the fringe area was already expanded by resolution passed by the Plan Commission in February. He explained that Gary Brinkworth is the engineer on the project that will ultimately deal with issues as it comes back to the Council regarding development, but he wanted to clarify that all that is before them tonight is the rezoning of the area.

Mrs. Crump clarified that they are not voting on what will be built there but just on the rezoning of the area.

Mr. Coffey asked if they are going to include commercial property

Mr. Kraft explained that the only issue before them was voting for the R-1 Residential and open-space Flood Plan.

Mr. Coffey stated that he has watched this from the beginning and it is headed towards a PUDD and he has actually heard that term used. He said they are talking about apartments but that doesn't necessarily relay to residential. He said he has talked to Mr. Rosenbarger about this and to go from agricultural to a PUDD because that is where this is going.

Mr. Kraft said that is not the issue before them tonight but any issue as it relates to a PUDD is a zoning change and that has to come before the Council as well. He explained that the only issue before them is to take the expanded space that was already granted by Resolution and to place zoning with in that for R-1 and open flood plan.

Mr. Coffey said that if he could guarantee that it was only R-1 and open space then he wouldn't have a problem with it.

Mr. Kraft stated that is the only issue before him and if it becomes a PUDD related issue it will come back before them.

Mr. Coffey asked why the people didn't go to the County Plan Commission on this issue so that the residents would have County representation.

Mr. Kraft stated that they have property all throughout that sits next to county property and the Resolution to extend the fringe has already been passed and it is just now a zoning issue within the fringe. He explained once again that the only land use issue is rezoning on the land that has already been extended.

Mr. Coffey asked what they plan to do if that area floods.

Mrs. Crump stated that would be something that would have to go back to the Planning Commission and the Commission would have to direct them on how to handle that. She

stated they are only voting on a zoning change and anything they plan to do after that had to go back to the Plan Commission.

Mr. Coffey stated that it is not just a zoning issue but a safety issue.

Mr. Blevins stated that he understands what it is that they are voting on tonight but that it is not going to end with this.

Mrs. Crump stated that all that will have to be approved first.

Mr. Kraft said that it all has to come back to them to vote on and the only issue before them is the zoning of the expanded fringe area that has already been adopted.

Mr. Coffey asked who is going to bear the brunt of the cost because they are going to have to build up the roads out there and they can't ask the police or the fire department to go out and get these people in boats because that would be asking them to risk their lives.

Mr. Zurschmiede stated that it isn't just about this particular area and that there were areas taken into this fringe and this is merely to establish preliminary zoning for this particular area.

Mr. Rosenbarger explained that it is just to establish zoning for this expanded fringe area. He stated that R-1 is the lowest that they can go on this and their code is set up to have a base zone and if someone wants to deviate that it is up to them to prove they have a better plan. He stated that they believe they have an interest in controlling the development of this area in regards to whether it is a County or a City issue and he believes the City had more at stake.

Mr. Zurschmiede stated that if anything changes it will have to come back before this board.

Mr. Coffey asked why it had to be zoned R-1 and why it couldn't be zoned AR-1 agricultural which he thinks would be far better suited out there.

Mr. Rosenbarger stated that they don't want to open the door for septic system use.

Mr. Coffey said that there is no other place in New Albany that gets flooded where they can't get out within a week and why would they allow this to happen here.

Mr. Rosenbarger stated that some areas are going to flood no matter who controls them and they believe they are in a better position to regulate it.

ADJOURN:

There being no further business to be heard, the meeting adjourned at 8:38 p.m.

Dan Coffey, Vice-President
Common Council, City of New Albany

ATTEST: _____
Marcey J. Wisman, City Clerk